

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE UNITED STATES FOR THE USE AND BENEFIT
OF PLATINUM MECHANICAL, LLC,

Plaintiff,

Case # 07 civ. 3318 (CLB)(LMS)

-against-

NOTICE OF MOTION

UNITED STATES SURETY COMPANY,
US SPECIALTY INSURANCE COMPANY and

CFP GROUP, INC.

Defendants.

CFP GROUP, INC.,

-against-


UTICA MUTUAL INSURANCE COMPANY.

Additional Defendant on the Counterclaim
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PLEASE TAKE NOTICE that, upon the annexed Affidavit of Patrick H. Ryan, sworn to October 19, 2007, together with all exhibits attached thereto, the accompanying Memorandum of Law, the Rule 56.1 Statement and all the papers and proceedings had herein, Additional Defendant on the Counterclaim, Utica Mutual Insurance Company ("Utica Mutual") will move this Court, at the United States Courthouse, located at 300 Quarropas Street, White Plains, New York 10601, before the Hon. Charles L. Brieant, on November 16, 2007 at 10:00 a.m., for an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure, dismissing the Counterclaim of CFP Group, Inc. ("CFP") as to Utica Mutual with prejudice, together with such other and further relief as this Court deems just and proper.

Dated: New York, New York
October 24, 2007

MOUND COTTON WOLLAN & GREENGRASS

By: 
John Mezzacappa
Attorney for Additional Defendant on the Counterclaim
Utica Mutual Insurance Co.
One Battery Park Plaza
New York, New York 10004
(212) 804-4200

To:

Thomas G. De Luca (TDL 6312)
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-AND-

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Paul G. Ryan (PR-2374)
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Attorneys for Plaintiff
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Telephone (914) 428-2100
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STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

TONI M. COCUZZO, being duly sworn, deposes and says:

That deponent is not a party to this action, is over the age of 18 years and located in New York, New York.

That on October 24, 2007, deponent served the within **NOTICE OF MOTION AND AFFIDAVIT OF PATRICK RYAN IN SUPPORT WITH EXHIBITS** upon:

Thomas G. De Luca (TDL 6312)
Attorneys for Defendant - Counterclaimant
CFP Group, Inc.
11 Commerce Drive
Cranford, New Jersey 07016

-and-

Lori Vaughn Ebersohl
LORI VAUGHN EBERSOHL, PLLC
252 North Washington Street
Falls Church, VA 2204

Paul G. Ryan (PR-2374)
WELBY, BRADY & GREENBLATT, LLP
Attorneys for Plaintiff
Platinum Mechanical, LLC
11 Matrine Avenue
White Plains, New York 10606

at the address designated by said attorney and/or party for that purpose, by depositing the same, enclosed in a postpaid, properly addressed envelope directed to said persons at the above address, in an official depository under the exclusive care and custody of United States Post Office.


TONI M. COCUZZO

Sworn to before me on
October 24, 2007



Notary Public

KEVIN J. BRASSIL
Notary Public, State of New York
No. 31-5018311
Qualified in New York County
Certificate Filed in New York County
Commission Expires Sept. 27, 2009